

United States District Court
for the middle District of Pennsylvania

WM Branch
vs
MR Russian et. al.,
Plaintiff
Defendants

Civil Action No. 1:00-1728
(Judge) Conner

Third Brief of motion to Deny
Summary Judgement and Extension
of time to Complete Discovery

Sir if it Pleases this Honorable Tribunal
ignoble inmate William Branch CF-3756 Humbly Prayes
for and Extension of time to Complete Discovery
I have Received a Res ponse from Ms Mosley who has
stated that I did not supply her with enough infor-
-mation to answer these question I have written
her and stated I will conferre with her on any
question she may have I have also sent her what
I feel will add her in answering my questions
of interogatories, but to this Date she has not
Responded, therefore I Respectfully State that Per
Federal Rules of Civil Prceedure Rule 56.(f)

Most noble Tribunal Per Federal Rules of civil
Procedure 56.e if a material issue exist Summary
Judgement must be denied.

1. The Grievance System is Required to be Exhausted
Before a §1983 Complaint can be filed, this make
The Grievance System an Element of my access

my effort to access the court started when I wrote a Request to Supt Collieran about cp Russian complaining about his mistreatment, at this point the D.O.C had a duty to protect me from any harassment and Retaliation, I told cp Russian he was doing cell safety checks (a) I had spoken with Capt. Griffin, Mr Gorman, Friedman, ~~Wrong~~ ~~as if~~ Mr Russian continued to Retaliate against me I then wrote a Request to Supt Collieran

my Right to access the court is constitutional protected I was Placed in the RHU/hole as part of a Planned conspiracy to punish me for Exercising my first amend. Rights, and this unconstitutional treatment is still going on with Lt. freethly THreatening me with Rewriting a misconduct and and increassing the punishment

filed MD CA. 1CV-04 -1054-1054 These Customs and Practices have been going on in this PRISON for years, this is further atested To in the Response Ms Mosley ex. Provide, In that none of the defendants have ever been discipline Because of any Grievances written by a inmate from 1993 to Date this is the sign of major cover ups, I know for a fact that inmate Beye E43494 was kicked in the behind by MR Scalzo and nothing happen No entry in his Record!

Material issue the Government may provide Benifits which the constitution does not Require but once it does due Process must be followed, I filed a grievance due Process Requires that it Be numbered and processed this was not Done Ronald Richards and How many other Grievances has he mis processed!

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42 U.S.C.A § 1997a Exhaustion of Remedies

Exhaustion of Prison Grievance, where PRISONER is Required to exhaust established PRISONER grievance procedure before securing Relief in federal court, PRISONERS fundamental Right to access to the court hinges on his ability to obtain access to prison Grievance System. Bradly Vs. Hall (C.A. 9 or. 1995) 64 F3d 1276

material issue does the staff failer to Process Grievances whether Properly filed OR not, contitute a violation of the access to court & amend. upon Receiving a inproper Grievance ~~shoud~~ do they have a duty to speak to the staff member complained of and ask the inmate filing the greivance to correct his greivance

Wood Vs. Smith 60 F3d 1161 (5th Cir. 1995)

[6] Prison Law Key 4.(10.1); 13 (4)

Prison official may not Retaliate against OR harass inmate for Exercising Right of access to courts OR for complaining to Supervisor about Guards misconduct.

(the staff conspired w/co Russian by not Restraining his actions)

[8] Civil Rights Law Key 135

Prison Disciplinary action motivated By Retaliation for PRISONER'S exercise of constitutional Right Protected Right is actionable even if action, when Taken for different Reason might ~~be~~ have been legitimate

material issue

Ms Surace Wrote me up because I was accessing The courts this was a planned Retaliation with the other named Defendants showing a practice and custom

Employed By the Staff here at SCi way MART.
the Chronology of events and action by the hearing Examiner
MR Welby, P.R.C. # Committee, Supt. Collieran, the Sec. office
of inmate Grievances, PROVE that Staff Knew I was access
ing the court and MS Surace was Retaliating against me
yet they supported the adverse action of Removing me
from my Job and Loss of Bonuse's and Pay for 7 years

did the Supt. allowing me to Regrieve this Disciplinary
action RESURRECT my Right to seek Redress via 42
USCA § 1983 [sic]

a § 1983 Claim can not be filed UNTILL admini-
-strative Remedies have been Exhausted the final
Exhaustion was august 30, 2001 Grievance No way
-0118-01 Exhibit AA-1 see Pg 9 + 2-A Letter to Sec-
office of inmate Grievance's and appeals, this Tolls
The Right to file a § 1983 Complaint this power is vest
in the D.O.C, they do not have to allow me to Regrieve
an issue but if they do I have due PROCESS Rights.

That attaches other Defendants capt Gavin okayed
This misconduct both of them MR friedman knew I had
asked to take off to meet a court Date but said nothing
his in action PROVES conspiracy, Please not I had a
§ 1983 in Sexual Harassment by a Staff member and
a medical, the out/come of the Sexual Harassment was
a failer to Exhaust Remedies, I did not go forward
with a new § 1983 on this matter because of the treat-
-ment I had Received while Trying to access the Courts
and I hoped it would Stop, but it did not they Keep
on mistreating me [sic]

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material issue

hair Exemption Pastor Gagas and Capt/Major Gavin, I did not Recieve due Process as out Lined in The accommodation Policy DC-ADM 819 Religious activities Policy Pg 8 G 2. a. - F. , see b. I was not given time to file a accommodation DC-52 the first time before my Hair was forced cut and the Second time I was not allowed due process or time MR friedman Rushed the order to cut my hair, he has Retired, he had me moved Back to M-2 under him this was his Good by Present to me. because I complained about his shower time, and he used C/o Gouat also in civil action MD ~~CV-04-1054~~ §1983

C.V-04-1054, to order me to cut my hair also a Planned Disciplinary action to punish me for exercising a Amend Right to petition the Government for Redress all these action have the effect of chilling my exercising my Amend Rights and the fact that nothing has ever Been done show's a custom and Patteren of Conspiracy with the administration and Staff allowing the Staff to harass and Retaliate against inmates who Report their misconducts. this is a violation of the first amend a. Protected Right, ^{FORcing me to cut my Hair Both Times was Done in Retaliation For me Exercising my Const. Rights capt. Gavin after I Reported C/o Russian and C/o Gouat after I complained about the Showers}

material issue

Pleading: I am not Required to plead the law, I Plead the issue the Court is to apply the Law. if I Raise the issue of Staff Retaliating against me for Reporting their misconducts and for accessing the

Page 6 O The courts by timing misconducts around the time I come up for Parole (See: Exhibits Green Sheets) and that the standard they used to determine if I am to be Parole is a Ex post facto and the Law of the Land states that the Parole Board also a Defendant with Mr Friedman can not use a Law that was not in effect when I was convicted, also shows a conspiracy to Retaliate by denying me Parole Based upon an unlawful Law and this happen not once but every time I came up for Parole

Material Issue Sign a P.A. name to a order to change my Diet Bag without his approve constitute a CRIME Forgery on a Business Document for the prepose of increasing my punishment while I was in the R.H.U./Hole in Retaliation for me Exercising my first amendment Rights

See: Request Slips Exhibit MR Heffernan
Motion to Dismiss.

Issue a clear Demastraction of Planned Disciplinary action falsifying misconduct and forged Change of Food allotment a medical prescription this is a violation of the Law and there is no ~~Justification~~ Justification for using someone else's ~~name~~ name and Signature if every thing is on the up and up. this is and act of Retaliation w/ conspirators of the medical Dept as well as administration and Hearing Examiner and staff, c/o Russian

Material Issue Education

The courts have Ruled in Thomas 450 usot 715

—716, 101 S.Ct 1425 Free Exercise turns on

whether they are sincerely held not on the ecclesiastical question. I Believe that my ministry on the choir Requires me to attend choir practice, upon entering School I was not told I could not attend choir practice in fact the Prison allow you to take off for one Religious Service a week and other inmates had been allow to go to choir Practice Weldon ayers Dm-9082 told me he was allowed to attend the church Committee meeting also

This issue of denying me choir Practice was made up to get at me for Reporting Staff and accessing the court, Staff wanted to make my time a Living Hell because I accessed the courts and this is a violation of my Protected First amend Rights

Further ms wilbur changed the days for class But Refused to allow me to attend because she said I spoke to fast [sic] this to is a violation of my Constitutional Right to speak in my Defence and not Be punished or denied a Benifit for So doing

USCA first amend. Perry vs. Sinderman 92 S.Ct 2694 U.S.; [2] Const. Lawkey 90.1 (1) at 1597 for at

at least a quarter-century this court has made clear that even though a person has no "Right" to a Valuable govern-mental Benefit and even though the government may deny him the Benefit for any number of Reasons there are Some Reasons upon which the government may not Rely, It may not deny a benefit to a person on a bases that infrings on his Constitutionally Protected interests—especially his interest in the freedom of speech first amend USCA.

Page 8 Material Issue Racial Profiling

The fact that I am a Blackman and all the defend-ants are white Racial Profiling always attaches as Stated Before even if I did not Plead Racial Profiling the law of the land is there shall be no Racial Profiling and the courts are to apply the Law of the Land, The Elements are there

Material Issue Martinelli vs Duggar (CA 11 Fla. 1987)
817 F2d 1499 cert Denied 108 S.Ct. 714, 484 U.S. 1012,
98 LEd 2d. 664

Cont Law Key 84.2

Bona fide or Sincerely held Beliefs, legitimacy of Religion Proof of connection between allegedly Protected Practice and Religious Belief is properly considered element of Plaintiffs Proof that he or she is sincere in asserting that Beliefs are Protected by the free exercise clause, However, although ~~Plaintiff claim must be rooted~~ it is true that in order to have the Protection of the free exercise clause plaintiffs claim must be Rooted in Religious Belief, there is No Separate Requirement that the claim be deeply - Rooted

Rouser vs. White 944 Fsupp 1447 (E.D. Cal. 1996)

[1] Federal Civil Procedure Key 244.5

Material issues of facts to Sincerity of Prisoners Religious Beliefs Preclude Summary Judgement for either party in Prisoners § 1983 action against Prison officials. I have Practice my Belief of Nazarene

over 5 yrs

Therefore I Pray this most august Tribune will deny this motion for Summary Judgement and Proceed To Trial Respectfully

PROOF OF SERVICE

I, the undersigned, verify that I have served a copy of this petition and any attachments thereof by U.S. mail to the following parties at the below listed addresses:

Judge Conner Po Box 983 Harrisburg Pa. 17108
S.D.A.G. M. Mosley 15th St Strawberry Sq Harrisburg Pa. 17120

Exhibits not mailed to ~~Mr. Mosley~~ Mr. Mosley and not able to get to
 Copy-machine Unsworn Declaration

I affirm under Penalty of the law that the above is True

Respectfully submitted,

Dated: 7-29-04

~~William Branch CF-3756~~

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